

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Richmond Division

2013 JUN 11 P 3:22

CLERK US DISTRICT COURT
RICHMOND, VIRGINIA

UNITED STATES OF AMERICA,

Petitioner,

v.

DOUGLAS F. BATCHELOR,

Respondent.

Civil No. **3:13cv373**

**UNITED STATES' PETITION TO ENFORCE
INTERNAL REVENUE SERVICE SUMMONS**

The United States of America brings this Petition to Enforce Internal Revenue Service Summons and states as follows:

1. This is an action to enforce an Internal Revenue Service summons issued to Douglas F. Batchelor.
2. This action is brought, and this Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(b) and 7604(a).
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1) and (2) and 26 U.S.C. § 7604(a), in that Douglas F. Batchelor resides, is found and/or conducts business or maintains records in this judicial district.
4. Douglas F. Batchelor is a natural person who resides at 8777 Sandy Beach Lane, King George, Virginia 22485, within this judicial district and division. See Declaration of Tonja Stevens (Stevens Dec.), ¶¶ 3-4; Exhibit 1.

5. Tonja Stevens, who issued the Internal Revenue Service summons herein, is a duly commissioned Revenue Officer employed in the Small Business/Self-Employed Division, South Atlantic Compliance Area of the Internal Revenue Service at Fredericksburg, Virginia, and is authorized to issue Internal Revenue Service summonses. Stevens Dec., ¶ 1.

6. In her capacity as a revenue officer, Revenue Officer Stevens is conducting an investigation into the collection of income tax liabilities of Douglas F. Batchelor for the tax periods ending December 31, 2000; December 31, 2001; December 31, 2002 and December 31 2003. Stevens Dec., ¶ 2.

7. In furtherance of the above investigation described in paragraph 6, and under 26 U.S.C. § 7602, Revenue Officer Stevens issued on February 27, 2013, an administrative summons– Internal Revenue Service Form 6637– to Douglas F. Batchelor to give testimony and to produce for examination books, papers, records, or other data as described in said summons. The summons directed Douglas F. Batchelor to appear before Revenue Officer Stevens on March 13, 2013 at 9:00 a.m. and provide testimony and produce for examination books, papers, records, or other data as described in said summons. A true and correct copy of the summons is attached to the Stevens Declaration as Exhibit 1. Stevens Dec., ¶ 3.

8. In accordance with Section 7603(a) of the Internal Revenue Code (26 U.S.C.), Revenue Officer Stevens served an attested copy of the summons described in paragraph 7 above on the respondent, Douglas F. Batchelor, by leaving an attested copy thereof at the last and usual place of abode of Douglas F. Batchelor on February 27, 2013, as evidenced in the certificate of service on the reverse side of the summons. Stevens Dec., ¶ 4; Exhibit 1 (2nd page).

9. On March 13, 2013, the date on which the respondent was required to comply with the summons, the respondent failed to appear, testify or produce records which were demanded by the summons, and this failure continues to the date of this declaration. Stevens Dec., ¶ 5.

10. On March 21, 2013, the Service's counsel sent a letter to the respondent, noting that the respondent "did not comply with the provisions of the summons served on [him] on February 27, 2013," and that "[l]egal proceedings may be brought against [him] . . . for not complying with this summons." The letter concluded by offering the respondent an opportunity "[t]o avoid such proceedings" by appearing before the Revenue Officer on April 12, 2013 at 8:00 a.m. The respondent, Douglas F. Batchelor, did not appear for the scheduled meeting. Stevens Dec., ¶ 6.

11. The summoned information is in the possession of the summoned party, and is not already in the possession of the Service. The summoned information is necessary in order to effectuate the collection of the income tax liabilities of Douglas F. Batchelor for the tax years ending December 31, 2000; December 31, 2001; December 31, 2002 and December 31 2003. Stevens Dec., ¶ 7.

12. As of the date of this Petition to Enforce Internal Revenue Service Summons, there has not been a referral, pursuant to 26 U.S.C. § 7602(d)(2) to the Department of Justice for the tax years at issue. In other words, the Service has not made a recommendation to the Department of Justice for a grand jury investigation or criminal prosecution of Douglas F. Batchelor for the tax years under investigation. The Service is not delaying a recommendation to the Department of Justice in order to collect additional information on Douglas F. Batchelor. The Department of Justice also has not made any request under 26 U.S.C. § 6103(h)(3)(B) for the disclosure of any

return or return information (as those terms are defined in 26 U.S.C. § 6103(b)) relating to Douglas F. Batchelor. Stevens Dec., ¶ 8.

13. As of the date of this Petition to Enforce Internal Revenue Service Summons, the Internal Revenue Service has not collected the tax liabilities of the respondent for income tax periods December 31, 2000; December 31, 2001; December 31, 2002 and December 31 2003 at issue. Stevens Dec., ¶ 9.

14. All administrative steps required by the Internal Revenue Code for the issuance of summons have been taken. Stevens Dec., ¶ 10.

WHEREFORE, petitioner, the United States of America, requests that the Court:

A. Enter the attached Order directing the respondent to show cause why he should not be compelled to comply with the Internal Revenue Service summons served upon him forthwith;

B. Enforce the summons issued to Douglas F. Batchelor, requiring complete compliance with the summons and specifically directing the summoned party to obey the summons served upon him and ordering his attendance and testimony and the production of the books, records, papers and other data as required by the terms of the summons before Revenue Officer Stevens or any authorized officer of the Internal Revenue Service at such time and place as may be fixed by Revenue Officer Stevens or any authorized officer of the Service;

C. Enter a final judgment and enforcement order;

D. Award the United States its costs; and

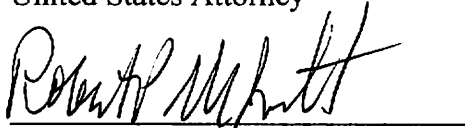
E. Grant such other and further relief as is just and proper.

DATED: June 11, 2013.

Respectfully submitted,

NEIL H. MACBRIDE
United States Attorney

By:

A handwritten signature in black ink, appearing to read "Robert P. McIntosh", written over a horizontal line.

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